

ARTICLE 4. PESTICIDE USE AND APPLICATION

Rule 0.5. Definitions

355 IAC 4-0.5-1 Applicability

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6

Sec. 1. The definitions in this rule apply throughout this article. (*State Chemist of the State of Indiana; 355 IAC 4-0.5-1; filed Nov 22, 1999, 3:39 p.m.: 23 IR 776; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

355 IAC 4-0.5-2 “Licensed applicator for hire” defined

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6

Sec. 2. “Licensed applicator for hire” means any licensed certified commercial applicator who is employed by a licensed pesticide business and is directly responsible for the use or supervision of the use of any pesticide on the property of another. (*State Chemist of the State of Indiana; 355 IAC 4-0.5-2; filed Nov 22, 1999, 3:39 p.m.: 23 IR 776; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

355 IAC 4-0.5-3 “Licensed applicator not for hire” defined

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6

Sec. 3. (a) “Licensed applicator not for hire” means a licensed certified commercial applicator who is employed by a private employer to use or supervise the use of:

- (1) a restricted use pesticide on the property of the employer; or
- (2) any pesticide on the property of the employer in a potentially hazardous situation or site as determined by the Indiana pesticide review board by rule.
- (b) The term does not include the following:
 - (1) A doctor of veterinary medicine.
 - (2) A medical doctor.
 - (3) An applicator who uses only the following nonrestricted use pesticides:
 - (A) Germicides.
 - (B) Disinfectants.
 - (C) Bactericides.
 - (D) Sanitizers.
 - (E) Water purifiers.
 - (F) Swimming pool chemicals.

(*State Chemist of the State of Indiana; 355 IAC 4-0.5-3; filed Nov 22, 1999, 3:39 p.m.: 23 IR 776; errata filed Dec 9, 1999, 12:31 p.m.: 23 IR 813; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

355 IAC 4-0.5-4 “Licensed public applicator” defined

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6

Sec. 4. (a) “Licensed public applicator” means a licensed certified commercial applicator who, as an employee of a state agency, municipal corporation, or other governmental agency, uses or supervises the use of:

- (1) a restricted use pesticide; or
- (2) any pesticide in a potentially hazardous situation or site as determined by the Indiana pesticide review board by rule.
- (b) The term does not include the following:
 - (1) A doctor of veterinary medicine.

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- (2) A medical doctor.
- (3) An applicator who uses only the following nonrestricted use pesticides:
 - (A) Germicides.
 - (B) Disinfectants.
 - (C) Bactericides.
 - (D) Sanitizers.
 - (E) Water purifiers.
 - (F) Swimming pool chemicals.

(State Chemist of the State of Indiana; 355 IAC 4-0.5-4; filed Nov 22, 1999, 3:39 p.m.: 23 IR 777; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

Rule 1. Categorization of Licenses and Certificates

355 IAC 4-1-1 Definitions (Repealed)

Sec. 1. *(Repealed by State Chemist of the State of Indiana; filed Nov 21, 1984, 3:33 pm: 8 IR 334)*

355 IAC 4-1-1.1 Commercial applicators; licensing

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6-2

Sec. 1.1. (a) An individual who is employed as a licensed applicator by more than one (1) business or agency at the same time shall hold separate and distinct licenses for each employer and shall pay all applicable license fees.

(b) Completing the certification requirements as a commercial applicator (IC 15-3-3.6-2(7)) shall be a qualifying requirement for each of the licenses defined in 355 IAC 4-0.5. *(State Chemist of the State of Indiana; 355 IAC 4-1-1.1; filed Nov 21, 1984, 3:33 p.m.: 8 IR 331; filed Nov 22, 1999, 3:39 p.m.: 23 IR 777; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)*

355 IAC 4-1-2 Licensed applicator not for hire; certification (Repealed)

Sec. 2. *(Repealed by State Chemist of the State of Indiana; filed Nov 21, 1984, 3:33 pm: 8 IR 334)*

355 IAC 4-1-2.1 Commercial applicators; certification standards and procedures

Authority: IC 15-3-3.6-3; IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6-8.1

Sec. 2.1. (a) Initial certification of commercial applicators shall be by written examinations as set forth in subsections (b) and (c). The minimum passing score on all examinations administered by the state chemist shall be seventy-five percent (75%) unless another minimum passing score has been established by the state chemist after consideration of the recommendations of the standards committee described in subsection (d).

(b) Each certified commercial applicator shall have passed a core and category or combined core and category examination covering, at a minimum, subject matter and standards that have been identified to the state chemist by the standards committee described in subsection (d). These subject matter and standards shall be published as part of the state chemist's plan for certification of applicators that is filed with the United States Environmental Protection Agency.

(c) The state chemist shall develop the certification examinations covering subject matter and standards identified to the state chemist by the standards committee. Members of this committee shall be appointed by the state chemist and shall include, at a minimum, individuals representing the following:

- (1) The state chemist.
- (2) The Purdue University cooperative extension service.
- (3) The largest pesticide user groups covered by that category of commercial applicators who will take the examination.

A separate standards committee shall be assembled for each examination, but an individual shall be allowed to serve on more than

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one (1) committee.

(d) Certification shall remain in force from the date of passing the examination through December 31 of the fourth year following the year during which the examination was passed unless revoked or suspended.

(e) No examination may be attempted more than three (3) times in any twelve (12) month period. The twelve (12) month period shall commence on the date the first exam failure occurs.

(f) The individual taking the exam shall not consult notes, training materials, books, or any other prohibited materials during the examining period. There shall be no unauthorized talking during the examining period. All examination materials shall be turned in to the examination proctor following the examining session. Failure to comply with these or other specified examination procedures or any unauthorized assistance provided by or received by an individual during the examining period shall be cause for immediate termination of the examining process for all involved individuals and no additional opportunity to take any examinations shall be provided to the involved individuals for a period of five (5) years. (*State Chemist of the State of Indiana; 355 IAC 4-1-2.1; filed Nov 21, 1984, 3:33 p.m.: 8 IR 331; filed Nov 22, 1999, 3:39 p.m.: 23 IR 777; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

355 IAC 4-1-3 Commercial applicators; categories of certification and licenses

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-2.1-2-15; IC 15-2.1-2-27; IC 15-3-3.6-10

Sec. 3. Commercial applicators shall be certified and licensed in one (1) or more of the following categories:

(1) Category 1a. Agricultural pest control (plant). This category includes individuals using or supervising the use of pesticides in production of agricultural crops, including, but not limited to:

- (A) feed grains;
- (B) corn;
- (C) soybeans and oil seed; and
- (D) forage;

as well as on grasslands and noncrop agricultural lands.

(2) Category 1b. Agricultural pest control (animal). This category includes individuals using or supervising the use of pesticides other than fumigants and pesticides for the control of wood destroying pests on livestock as defined in IC 15-2.1-2-27 and IC 15-2.1-2-15, and poultry or structures on or in which these animals are confined.

(3) Category 1c. Vegetable, fruit, and nut production pest control. This category includes individuals using or supervising the use of pesticides in production of:

- (A) vegetables;
- (B) fruits; and
- (C) nuts.

(4) Category 2. Forest pest control. This category includes individuals using or supervising the use of pesticides in forests or forest nurseries.

(5) Category 3a. Ornamental pest control. This category includes individuals using or supervising the use of pesticides in the maintenance and production of ornamental plants.

(6) Category 3b. Turf pest control. This category includes individuals using or supervising the use of pesticides in the maintenance and production of turf and turf related areas, such as driveways and sidewalks.

(7) Category 4. Seed treatment. This category includes individuals using or supervising the use of pesticides on seed stocks for the purpose of controlling pest organisms that are anticipated to attack the plant or germinating seed.

(8) Category 5. Aquatic pest control. This category includes individuals using or supervising the use of pesticides purposefully applied to standing or running water or wetlands.

(9) Category 6. Right-of-way pest control. This category includes individuals using or supervising the use of pesticides in the maintenance of:

- (A) public roads;
- (B) utility rights-of-way;
- (C) pipelines;
- (D) railway rights-of-way;

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- (E) parking lots;
- (F) ditch banks; or
- (G) other similar areas.

(10) Category 7a. Residential and institutional pest control. This category includes individuals using or supervising the use of pesticides, other than fumigants and pesticides for the control of wood destroying pests, in or around:

- (A) human dwellings;
- (B) farm structures;
- (C) restaurants;
- (D) warehouses;
- (E) institutional establishments; or
- (F) industrial plants;

except those engaged in the, manufacture or processing of food products or ingredients.

(11) Category 7b. Wood destroying pest control. This category includes individuals using or supervising the use of pesticides, other than fumigants, in or around structures for the prevention, suppression, or control of wood destroying organisms. This category can also include individuals who inspect structures for the purpose of determining the presence or absence of evidence of termites or other wood destroying organisms.

(12) Category 7c. Food processing industry pest control. This category includes individuals using or supervising the use of pesticides, other than fumigants, in or around structures or portions thereof in which food products are manufactured or processed.

(13) Category 7d. Fumigation. This category includes individuals using or supervising the use of pesticides in the gaseous state.

(14) Category 8. Public health pest control. This category includes governmental employees or other individuals using or supervising the use of pesticides in public health programs such as:

- (A) mosquito abatement operations;
- (B) area vertebrate control programs; and
- (C) similar area pest control activities;

having health or nuisance significance.

(15) Category 11. Aerial application. This category includes those individuals who apply pesticides by means of:

- (A) fixed wing;
- (B) rotary wing;
- (C) ultra light aircraft; or
- (D) lighter-than-air aircraft.

(16) Category LC. Limited certification. This category includes individuals using or supervising the use of a very limited number of specialized pesticides in or on a very limited number of types of sites and situations not adequately covered by other categories listed in this section. This category also can include individuals who only inspect for the purpose of determining the presence or absence of a particular pest or group of pests and the damage caused by those pests, but who neither use nor supervise the use of pesticides nor prescribe or recommend steps for prevention or control of such pests. These limited certifications shall be determined by the state chemist as the state chemist determines to be necessary.

(State Chemist of the State of Indiana; 355 IAC 4-3-3; Pesticide Use & Application Reg 1, Sec. 3; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 440; filed Nov 21, 1984, 3:33 p.m.: 8 IR 332; filed Nov 22, 1999, 3:39 p.m.: 23 IR 778; errata filed Dec 9, 1999, 12:31 p.m.: 23 IR 814; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

355 IAC 4-1-4 Private applicators; certification standards and procedures

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.5-1; IC 15-3-3.6

Sec. 4. (a) Initial certification of private applicators (IC 15-3-3.5-1(6)) shall be by written examination as set forth in subsection (b). Minimum passing score on all examinations administered by the state chemist shall be seventy-five percent (75%) unless another minimum passing score has been established by the state chemist after consideration of the recommendations of the standards committee described in subsection (c).

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(b) Each certified private applicator shall have passed a private applicator examination or an appropriate commercial applicator examination covering, at a minimum, subject matter and standards that have been identified to the state chemist by the standards committee described in subsection (c) or section 2.1(d) of this rule. The state chemist shall determine which commercial applicator examination will be considered appropriate for the private applicator's proposed use of pesticides.

(c) The state chemist shall develop the certification examinations covering subject matter and standards identified to the state chemist by the standards committee. Members of this committee shall be appointed by the state chemist and shall include, at a minimum, individuals representing the following:

- (1) The state chemist.
- (2) The Purdue University cooperative extension service.
- (3) The largest pesticide user groups covered by that category of private applicators who will take the examination.

(d) Certification and the permit for private applicators shall remain valid from the date of passing the examination and paying the permit fee through December 31 of the fourth year following the year during which the examination was passed. (*State Chemist of the State of Indiana; 355 IAC 4-1-4; filed Nov 21, 1984, 3:33 p.m.: 8 IR 334; filed Nov 22, 1999, 3:39 p.m.: 23 IR 780; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

Rule 2. Site Awareness and Direct Supervision of Non-Certified Applicators

355 IAC 4-2-1 Definitions

Authority: IC 15-3-3.5-11; IC 15-3-3.6-4; IC 15-3-3.6-10.1

Affected: IC 15-3-3.6-2

Sec. 1. The following definitions apply throughout this rule:

(1) "Competent person" means a person who:

- (A) has the ability to read and comprehend written instructions, including the text of pesticide labels;
- (B) is sixteen (16) years of age or over; and
- (C) is a registered technician.

(2) "Direct supervision" means either of the following:

- (A) The physical presence of the supervising certified applicator at the work site under circumstances that permit continuous direct voice contact with the noncertified individual.
- (B) The supervising certified applicator has provided the noncertified competent person the following:
 - (i) Written instructions covering site-specific precautions to prevent injury to persons or the environment or damage to property.
 - (ii) A copy of the labels of all pesticide products to be used.
 - (iii) The means and instructions to establish direct voice communication during the use of the pesticide with the supervising certified applicator.
 - (iv) All personal protective equipment and instructions on proper use required by the labels of the pesticide products for the uses being performed.

(3) "Registered technician" means a noncertified person who, having met the requirements of section 8 of this rule, is registered by the state chemist and thereby is authorized to engage in pesticide use and related activities while working under the direct supervision of a certified applicator.

(4) "Work site" means any location at which pesticides are used as defined in IC 15-3-3.6-2(37).

(5) "Written instructions" means a written or printed site assessment fact sheet or similar document that shall be reviewed by the noncertified applicator prior to each pesticide application. The required elements on the site assessment fact sheet shall be industry specific and developed by the state chemist in consultation with the appropriate certified applicator industry.

(*State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 1; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 442; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1191; filed Sep 20, 2001, 3:54 p.m.: 25 IR 376; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

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355 IAC 4-2-2 Pesticide use by noncertified persons

Authority: IC 15-3-3.5-11; IC 15-3-3.6-4

Affected: IC 15-3-3.6-7

Sec. 2. Pesticide may be used by a noncertified person working under the direct supervision of a certified applicator. All persons conducting use of pesticides for hire by aerial application shall be certified. (*State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 2; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1192; filed Sep 20, 2001, 3:54 p.m.: 25 IR 376; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

355 IAC 4-2-3 On-site supervision of use

Authority: IC 15-3-3.5-11; IC 15-3-3.6-4

Affected: IC 15-3-3.6

Sec. 3. The supervising certified applicator shall be physically present as defined in section 1(2)(A) of this rule if:

(1) the label of the pesticide being used so stipulates;

(2) the noncertified individual has had no prior experience with either the pesticide or the application methodology in use;
or

(3) the noncertified individual is not competent as defined in section 1(1) of this rule.

(*State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 3; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1192; filed Sep 20, 2001, 3:54 p.m.: 25 IR 376; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

355 IAC 4-2-4 Application instructions (Repealed)

Sec. 4. (*Repealed by State Chemist of the State of Indiana; filed Sep 20, 2001, 3:54 p.m.: 25 IR 378*)

355 IAC 4-2-5 Applicability of supervision requirements

Authority: IC 15-3-3.5-11; IC 15-3-3.6-4

Affected: IC 15-3-3.6

Sec. 5. The requirements for direct supervision of noncertified individuals shall apply to the following:

(1) Use of all pesticides by any person required by IC 15-3-3.6 to be licensed as one (1) of the following:

(A) A pesticide business.

(B) A for hire applicator.

(C) A not for hire applicator.

(D) A public applicator.

(2) Use of restricted use pesticides.

(*State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 5; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1192; filed Sep 20, 2001, 3:54 p.m.: 25 IR 377; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

355 IAC 4-2-6 Certified and noncertified applicators' responsibilities

Authority: IC 15-3-3.5-11; IC 15-3-3.6-4

Affected: IC 15-3-3.6

Sec. 6. Certified supervising applicators and noncertified individuals shall be responsible for the following:

(1) A certified supervising applicator shall provide the items listed in section 1(2)(B) of this rule to the noncertified individual.

(2) A noncertified individual shall:

(A) be in possession of the items listed in section 1(2)(B) of this rule;

(B) carry out the instructions of the supervising certified applicator; and

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(C) upon request, produce the items listed in section 1(2)(B) of this rule for inspection by the state chemist. *(State Chemist of the State of Indiana; Pesticide Use & Application Reg 2, Sec 6; filed Apr 21, 1982, 3:45 p.m.: 5 IR 1192; filed Sep 20, 2001, 3:54 p.m.: 25 IR 377; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)*

355 IAC 4-2-7 Limit on number of noncertified individuals to be supervised

Authority: IC 15-3-3.5-11; IC 15-3-3.6-4

Affected: IC 15-3-3.6

Sec. 7. (a) A certified applicator providing direct supervision as described in section 1(2)(B) of this rule may supervise no more than ten (10) noncertified individuals unless an emergency exemption as provided in subsection (b) has been granted by the state chemist.

(b) A certified applicator may apply for and the state chemist may grant an emergency exemption for up to sixty (60) days from the date of application by the certified applicator to allow for temporary supervision of more than ten (10) noncertified individuals.

(c) The state chemist will determine if the emergency exemption as applied for is justifiable and reasonable to grant. *(State Chemist of the State of Indiana; 355 IAC 4-2-7; filed Sep 20, 2001, 3:54 p.m.: 25 IR 377; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)*

355 IAC 4-2-8 Technician registration requirements

Authority: IC 15-3-3.5-11; IC 15-3-3.6-4

Affected: IC 15-3-3.6-12.1

Sec. 8. (a) To become a registered technician, an individual must do the following:

(1) Pass the commercial applicator core examination described in 355 IAC 4-1-2.1(b) or, if a turf technician, pass either the core examination or the registered technician examination described in 355 IAC 4-6-4.

(2) Submit an application on a form provided by the state chemist. This form must be signed by both the applicant and the responsible certified applicator employed at the applicant's business location.

(3) Submit the thirty dollar (\$30) technician registration fee.

(b) Registration shall remain in force from the date of passing the examination through December 31 of the fourth year following the year during which the examination was passed unless revoked or suspended.

(c) The registration period may be extended indefinitely for an additional five (5) years if the registered technician accumulates at least eight (8) continuing registration credits by attending at least two (2) state chemist approved continuing registration programs while the registration is in force.

(d) Annual registration credentials shall expire on December 31 unless renewed by a payment of a thirty dollar (\$30) renewal fee by that date. Renewal after December 31 shall include a late fee of thirty dollars (\$30) as established by IC 15-3-3.6-12.1 in addition to the thirty dollar (\$30) renewal fee.

(e) The registration credential shall be in the possession of the registered technician at all times the technician is at a work site as defined in section 1(4) of this rule. *(State Chemist of the State of Indiana; 355 IAC 4-2-8; filed Sep 20, 2001, 3:54 p.m.: 25 IR 377; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)*

Rule 3. Financial Responsibility of Commercial Applicators

355 IAC 4-3-1 Proof of financial responsibility; bond

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6-6; IC 15-3-3.6-13; IC 27-1-3-20

Sec. 1. Applicants for licensure as a pesticide business shall furnish evidence of financial responsibility acceptable to the state chemist prior to the issuance and upon annual renewal of such license or upon expiration of the proof of insurance on file with the state chemist. This requirement may be satisfied by:

(1) liability insurance or a surety bond issued by a company holding a certificate of authority issued by the Indiana department

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of insurance under IC 27-1-3-20; or

(2) certificate of financial responsibility issued by an institution licensed to do business in the state by the Indiana department of financial institutions.

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 3, Sec 1; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Jan 10, 1995, 8:45 a.m.: 18 IR 1238; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

355 IAC 4-3-2 Minimum coverage

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6-6; IC 15-3-3.6-13

Sec. 2. Minimum coverage requirements shall be as follows:

(1) General liability, three hundred thousand dollars (\$300,000) combined single limit of liability for bodily injury and property damage. The limit is to apply to each occurrence.

(2) Vehicle liability, three hundred thousand dollars (\$300,000) limit per accident. This shall be required only if the insured owns, leases, rents, maintains, or uses any vehicle in connection with the use of pesticides. This type of coverage is not required if already covered by the general liability insurance.

(3) Watercraft liability, three hundred thousand dollars (\$300,000) limit per accident. This shall be required only if the insured owns, leases, rents, maintains, or uses any watercraft in connection with the use of pesticides. This type of coverage is not required if already covered by the general liability insurance.

(4) Aircraft liability, either of the following shall be required only if the insured owns, leases, rents, maintains, or uses any aircraft in connection with the use of pesticides:

(A) Three hundred thousand dollars (\$300,000) limit per accident.

(B) Both:

(i) one hundred thousand dollars (\$100,000) bodily injury per person and three hundred thousand dollars (\$300,000) per accident; and

(ii) one hundred thousand dollars (\$100,000) property damage per accident and one hundred thousand dollars (\$100,000) aggregate.

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 3, Sec 2; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 444; filed Jan 10, 1995, 8:45 a.m.: 18 IR 1239; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

355 IAC 4-3-3 Coverage

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6-6; IC 15-3-3.6-13

Sec. 3. General liability coverage shall be conditioned to provide coverage for damage to persons or property outside of the insured's care, custody, and control resulting from wind drift or overspray of pesticides. *(State Chemist of the State of Indiana; Pesticide Use & Application Reg 3, Sec 3; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 444; filed Jan 10, 1995, 8:45 a.m.: 18 IR 1239; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)*

355 IAC 4-3-4 Official form

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6-6; IC 15-3-3.6-13

Sec. 4. Proof of financial responsibility shall be provided by the issuing company or institution on forms determined to be acceptable by the state chemist. Acceptable forms shall include, but may not be limited to, a certificate of insurance. *(State Chemist of the State of Indiana; Pesticide Use & Application Reg 3, Sec 4; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 444; filed Jan 10, 1995, 8:45 a.m.: 18 IR 1239; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)*

Rule 4. Records

355 IAC 4-4-1 Commercial applicator use records

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6-19

Sec. 1. (a) All commercial applicators or their employees shall keep and maintain records of all applications of pesticides classified for restricted use. Such records shall provide the following:

- (1) Name and address of customer and address or location description of site of application if different.
- (2) Name and certification number (or certification number of the supervising certified applicator) of the person making the application.
- (3) Date of application (month, day, and year).
- (4) Type of plants, crop, animals, commodity, stored product, or sites treated and principal pests to be controlled.
- (5) Acreage, area, or number of plants or animals treated or other appropriate description.
- (6) Pesticide applied, including name of the manufacturer, EPA registration number, and brand name (including formulation if specifically identified in the brand name).
- (7) Amount used, expressed as either:

(A) concentrate—give total quantity of formulation applied (pounds, gallons, etc.); or

(B) diluted mixture (ready to use)—give total amount applied and active ingredient concentration (percentage).

(b) The records to be maintained under this section shall be recorded by the thirtieth day from the date of application and be kept and maintained for a period of two (2) years.

(c) The records to be maintained under this section shall be maintained collectively.

(d) Written or electronic information which includes all of the items in subsection (a) and used to create the records shall be maintained from the date of application until the collective written record required is generated.

(e) A commercial applicator shall, within thirty (30) days of a restricted use pesticide application, provide a copy of records maintained under this section to the person for whom the restricted use pesticide was applied. Such person shall keep this copy for two (2) years after the date of the application. (*State Chemist of the State of Indiana; Pesticide Use & Application Reg 4, Sec 1; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 444; filed Nov 3, 1993, 9:00 a.m.: 17 IR 339; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

355 IAC 4-4-1.5 Private applicator use records

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6

Sec. 1.5. (a) All private applicators or their employees shall keep and maintain records of all applications of pesticides classified for restricted use. Such records shall provide the following:

- (1) Address or location description of site of application.
- (2) Name and certification number (or certification number of the supervising certified applicator) of the person making the application.
- (3) Date of application (month, day, and year).
- (4) Type of plants, crop, animals, commodity, stored product, or sites treated and principal pests to be controlled.
- (5) Acreage, area, or number of plants or animals treated or other appropriate description.
- (6) Pesticide applied, including name of the manufacturer, EPA registration number, and brand name (including formulation if specifically identified in the brand name).
- (7) Amount used, expressed as either:

(A) concentrate—give total quantity of formulation applied (pounds, gallons, etc.); or

(B) diluted mixture (ready to use)—give total amount applied and active ingredient concentration (percentage).

(b) The records to be maintained under this section shall be recorded by the thirtieth day from the date of application and be kept and maintained for a period of two (2) years.

(c) Written or electronic information which includes all of the items in subsection (a) and used to create the records shall be maintained from the date of application until the collective written record required is generated. (*State Chemist of the State of Indiana; 355 IAC 4-4-1.5; filed Nov 3, 1993, 9:00 a.m.: 17 IR 339; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

355 IAC 4-4-2 Record inspection; availability

Authority: IC 15-3-3.6-4

Affected: IC 15-3-3.6

Sec. 2. (a) All required records and information shall, upon written or oral request, be made available for inspection and copying by the state chemist or his authorized agent. The person requesting the records must present his or her credentials prior to the release of records.

(b) No government agency shall release information obtained under this rule that would directly or indirectly reveal the identity of producers of commodities to which restricted use pesticides have been applied. However, information collected by the state chemist during the course of a complaint or damage investigation shall not be subject to this restriction on release.

(c) When a licensed health care professional determines that information required to be maintained as part of these records is necessary to provide medical treatment to an individual who may have been exposed to the pesticide, the state chemist or the private or commercial applicator shall provide the requested information.

(d) As used in this rule, "licensed health care professional" means a physician, nurse, emergency medical technician, or other qualified individual licensed by a state to provide medical treatment.

(e) No licensed health care professional shall release any record or information from any record obtained under subsection (c) except as necessary to provide medical treatment to an individual who may have been exposed to the restricted use pesticide for which the record is maintained. (*State Chemist of the State of Indiana; Pesticide Use & Application Reg 4, Sec 2; filed Aug 3, 1976, 4:10 p.m.; Rules and Regs. 1977, p. 445; filed Nov 3, 1993, 9:00 a.m.: 17 IR 340; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

355 IAC 4-4-3 Restricted pesticide dealers; records

Authority: IC 15-3-3.5-11; IC 15-3-3.6-4

Affected: IC 15-3-3.5-10; IC 15-3-3.6-12; IC 15-3-3.6-19

Sec. 3. Dealers selling or distributing pesticides with uses classified as restricted shall be registered with the Office of the State Chemist each year. These dealers shall record for each transaction involving a restricted use pesticide the following:

(a) Name, address and certificate number of the certified applicator for whom the purchase is being made.

(b) Date

(c) Identity of product (manufacturer, EPA registration number, and brand name).

(d) Amount of product sold.

(e) Signature of person presenting the certification credentials. These records shall be maintained for two years from the date of sale.

(*State Chemist of the State of Indiana; Pesticide Use & Application Reg 4, Sec 3; filed Aug 3, 1976, 4:10 pm; Rules and Regs. 1977, p. 445; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

Rule 5. Licensed Applicators (for Hire) and Registered Technicians; Qualifications, Training, and Supervision

355 IAC 4-5-1 Definitions

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6

Sec. 1. (a) As used in this rule, "licensed applicator for hire" means any licensed, certified individual who is employed by a licensed pesticide business to use or to supervise the use of any pesticide by the firm and, for purposes of this rule, is certified in Category 7b.

(b) As used in this rule, "registered technician" means an uncertified employee of a licensed business who, having met the requirements stated in section 4 of this rule, is registered by the state chemist and thereby authorized to carry out responsibilities in the business while working under the direct supervision of a licensed applicator for hire. (*State Chemist of the State of Indiana; 355 IAC 4-5-1; filed Feb 17, 1986, 3:00 p.m.: 9 IR 1570, eff Apr 1, 1986; filed Sep 10, 1999, 4:41 p.m.: 23 IR 302; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

355 IAC 4-5-2 Responsibilities of licensed applicators for hire

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6-16.1

Sec. 2. Licensed applicators for hire shall be required to do the following:

(1) Develop records for all for hire termiticide applications performed by that licensed applicator or registered technician operating under that licensed applicator's direct supervision as described in 355 IAC 4-2.

(2) Ensure that the records required under this section include the following:

(A) A copy of the contract for the treated structure. The contract shall be declared confidential as provided for in IC 15-3-3.6-16.1.

(B) A graph or diagram of the treated structure.

(C) Accurate structural dimensions of the treated structure.

(D) Treatment specifications.

(E) U.S. Environmental Protection Agency product registration number for the termiticide used.

(F) Dilution rate of the termiticide.

(G) Volume of termiticide use dilution applied.

(H) Explanation for any label directed treatment procedures that were not performed.

(I) Name and registration number of the technician.

(J) Name and license number of the applicator or supervisor if treatment was performed by a registered technician.

(K) Day, month, and year of treatment.

(3) Keep and maintain the records required under this section for a period of five (5) years from the date of treatment.

(4) Provide the registered technicians under the licensed applicator's supervision with written site-specific treatment instructions that include the following:

(A) A copy of the labels of all products to be used.

(B) The information required in subdivision (2).

(5) Review and verify, by licensed applicator's signature, the site-specific treatment instructions required in subdivision (4) prior to the treatment.

(State Chemist of the State of Indiana; 355 IAC 4-5-2; filed Feb 17, 1986, 3:00 p.m.: 9 IR 1570, eff Apr 1, 1986; filed Sep 10, 1999, 4:41 p.m.: 23 IR 303; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

355 IAC 4-5-3 Eligibility to take the Category 7b certification exam

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6

Sec. 3. To become eligible to take the Category 7b certification examination as described in 355 IAC 4-1, an individual must first complete one (1) of the following:

(1) An approved program at the Purdue University Structural Pest Control Training Center or other program the state chemist has reviewed and determined to be of comparable quality and scope.

(2) One (1) year of experience as an active Category 7b certified applicator or registered technician in Indiana or another state having a comparable and verifiable program and completion of the record submission process described in section 5 of this rule.

(State Chemist of the State of Indiana; 355 IAC 4-5-3; filed Feb 17, 1986, 3:00 p.m.: 9 IR 1570, eff Apr 1, 1986; filed Sep 10, 1999, 4:41 p.m.: 23 IR 303; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

355 IAC 4-5-4 Technician registration requirements

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6-12.1

Sec. 4. (a) To become a registered technician, an individual must do the following:

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- (1) Pass the registered technician written examination or satisfactorily complete a training program as referenced in section 3(1) of this rule.
- (2) Submit an application on a form provided by the state chemist. This form must be signed by both the applicant and a responsible licensed applicator for hire employed at the applicant's business location.
- (3) Submit the thirty dollar (\$30) technician registration fee unless the individual is currently a licensed applicator for hire in Indiana in a category other than Category 7b.
- (b) The state chemist shall develop the registered technician examination covering subject matter and standards identified to the state chemist by a standards committee. Members of this committee shall be appointed by the state chemist and shall include, at a minimum, individuals representing the following:
 - (1) The state chemist.
 - (2) The Purdue University Cooperative Extension Service.
 - (3) Licensed applicators for hire.
 - (4) Registered technicians.
- (c) The minimum passing score for the registered technician examination shall be established by the state chemist after consideration of recommendations from the standards committee as described in subsection (b) or shall default to seventy-five percent (75%) if the standards committee has not made a recommendation to the state chemist.
- (d) No examination may be attempted more than three (3) times in any twelve (12) month period. The twelve (12) month period shall commence on the date the first exam failure occurs.
- (e) Registration of each registered technician shall expire on December 31 unless renewed by payment of a thirty dollar (\$30) renewal fee by that date. An individual renewing an applicator license for hire in Indiana in a category other than Category 7b shall not be required to pay this renewal fee. Renewal after December 31 shall include a late fee of thirty dollars (\$30) as established by IC 15-3-3.6-12.1 in addition to the thirty dollar (\$30) renewal fee.
- (f) The registration credential shall be in the possession of the registered technician at all times the technician is at a work site as defined in 355 IAC 4-2-1(c).
- (g) The steps specified in subsection (a) shall be required for reinstatement of registration as a technician of any individual who has been inactive or unregistered for a period of two (2) years or more. (*State Chemist of the State of Indiana; 355 IAC 4-5-4; filed Feb 17, 1986, 3:00 p.m.: 9 IR 1570, eff Apr 1, 1986; filed Sep 10, 1999, 4:41 p.m.: 23 IR 303; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

355 IAC 4-5-5 Record submission process

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6

- Sec. 5. (a) Registered technicians attempting to become eligible to take the certification examination by the process referenced in section 3(2) of this rule must accomplish the following:
- (1) Treat a minimum of fifteen (15) properties in which the variety and distribution of construction styles, where subterranean termites are the pest organism, shall include the following:
 - (A) Concrete slab.
 - (B) Crawl space.
 - (C) Basement.
 - (D) Preconstruction treatment.
 - (E) Private water supply.
 - (2) Submit to the state chemist records for the treatments specified in subdivision (1) that include the information in section 2(2) of this rule.
 - (b) Incomplete or inadequate records shall not be counted toward totals required in subsection(a)(1). (*State Chemist of the State of Indiana; 355 IAC 4-5-5; filed Feb 17, 1986, 3:00 p.m.: 9 IR 1570, eff Apr 1, 1986; filed Sep 10, 1999, 4:41 p.m.: 23 IR 305; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

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355 IAC 4-5-6 Supervision of uncertified employees

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6

Sec. 6. Uncertified employees must use pesticides for the control of wood destroying organisms in or around structures belonging to another only under supervision of a licensed applicator for hire as follows:

(1) Registered technicians shall operate under direct supervision as defined in 355 IAC 4-2.

(2) Uncertified and unregistered employees shall operate under the direct on-site supervision of a licensed applicator for hire as provided for in 355 IAC 4-2-1(b)(1).

(State Chemist of the State of Indiana; 355 IAC 4-5-6; filed Feb 17, 1986, 3:00 p.m.: 9 IR 1570, eff Apr 1, 1986; filed Sep 10, 1999, 4:41 p.m.: 23 IR 306; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

355 IAC 4-5-7 New resident applicators; temporary license (Repealed)

Sec. 7. *(Repealed by State Chemist of the State of Indiana; filed Sep 10, 1999, 4:41 p.m.: 23 IR 306)*

355 IAC 4-5-8 Nonresident applicators; reciprocity (Repealed)

Sec. 8. *(Repealed by State Chemist of the State of Indiana; filed Sep 10, 1999, 4:41 p.m.: 23 IR 306)*

355 IAC 4-5-9 Denial, suspension, or revocation of technician registration (Repealed)

Sec. 9. *(Repealed by State Chemist of the State of Indiana; filed Sep 10, 1999, 4:41 p.m.: 23 IR 306)*

355 IAC 4-5-10 Denial of the opportunity to take the category 7b (355 IAC 4-1-3) examination (Repealed)

Sec. 10. *(Repealed by State Chemist of the State of Indiana; filed Sep 10, 1999, 4:41 p.m.: 23 IR 306)*

355 IAC 4-5-11 Exemption

Authority: IC 15-3-3.6-4; IC 15-3-3.6-5

Affected: IC 15-3-3.6

Sec. 11. All persons having completed the requirements for certification and licensing as a licensed applicator for hire and having been issued a valid certification as of the effective date of this rule are exempt from section 3 of this rule. *(State Chemist of the State of Indiana; 355 IAC 4-5-11; filed Feb 17, 1986, 3:00 p.m.: 9 IR 1573, eff Apr 1, 1986; filed Sep 10, 1999, 4:41 p.m.: 23 IR 306; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)*

355 IAC 4-5-12 Effective date (Repealed)

Sec. 12. *(Repealed by State Chemist of the State of Indiana; filed Sep 10, 1999, 4:41 p.m.: 23 IR 306)*

Rule 6. Training Requirements for Licensed Applicators and Registered Technicians; Category 3b

355 IAC 4-6-1 Definitions

Authority: IC 15-3-3.6-5

Affected: IC 15-3-3.6

Sec. 1. The following definitions apply throughout this rule:

(1) "Licensed applicator for hire" means any licensed certified individual who is employed by a licensed pesticide business to use or to supervise the use of any pesticide by the business and, for purposes of this rule, is certified in Category 3b.

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(2) “Registered technician” means an uncertified person who, having met the requirements of section 4 of this rule, is registered by the state chemist and thereby is authorized to engage in pesticide use and related activities for his or her employer while working under the direct supervision of a licensed applicator for hire.

(3) “Turf pest” means any organism that inhabits or feeds upon the turf layer and root zone created by growing plants (usually grasses) and their matted roots and by so doing alters the vigor or appearance of the turf.

(State Chemist of the State of Indiana; 355 IAC 4-6-1; filed Jan 13, 1988, 4:47 p.m.: 11 IR 1760; filed Jan 9, 1992, 3:00 p.m.: 15 IR 702; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1100; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

355 IAC 4-6-2 Licensed applicators for hire requirements

Authority: IC 15-3-3.6-5

Affected: IC 15-3-3.6

Sec. 2. (a) Licensed applicators for hire shall be required to do the following:

(1) Provide the registered technicians under the licensed applicator’s supervision with written site-specific pesticide use instructions that include the following:

(A) A copy of the labels of all pesticide products to be used.

(B) The address or reasonable description of the physical location at which the pesticides will be used.

(C) The name and license number of the certified supervisor.

(2) Equip the registered technicians under the licensed applicator’s supervision with all personal protective equipment required on the labels of the products and for the uses by the technician.

(3) Ensure that the registered technicians under the licensed applicator’s supervision are able to establish direct voice communication with the licensed applicator when pesticide use is in progress.

(State Chemist of the State of Indiana; 355 IAC 4-6-2; filed Jan 13, 1988, 4:47 p.m.: 11 IR 1761; filed Jan 9, 1992, 3:00 p.m.: 15 IR 703; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1100; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

355 IAC 4-6-3 Applicator license requirements

Authority: IC 15-3-3.6-5

Affected: IC 15-3-3.6

Sec. 3. To become a licensed applicator for hire, an individual must do the following:

(1) Complete one (1) of the following:

(A) A practical hands-on training program reviewed and approved by the state chemist.

(B) Ninety (90) days of experience as an active Category 3b certified applicator or registered technician in Indiana or any state having a comparable and verifiable program as determined by the state chemist.

(C) Completion of a formal post high school two (2) year minimum turf program or a related program that includes turf production in its curriculum. An official transcript must be submitted to the state chemist for approval to qualify by this method.

(D) One (1) year of experience as an active licensed applicator in Indiana or in another state.

(2) Complete the examination process for certification as described in 355 IAC 4-1-2.1.

(State Chemist of the State of Indiana; 355 IAC 4-6-3; filed Jan 13, 1988, 4:47 p.m.: 11 IR 1761; filed Jan 9, 1992, 3:00 p.m.: 15 IR 703; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1101; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)

355 IAC 4-6-4 Technician registration requirements

Authority: IC 15-3-3.6-5

Affected: IC 15-3-3.6-12.1

Sec. 4. (a) To become a registered technician, an individual must do the following:

(1) Pass the registered technician written examination or satisfactorily complete a training program as referenced in section 3(1) of this rule.

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(2) Submit an application on a form provided by the state chemist. This form must be signed by both the applicant and a responsible licensed applicator for hire employed at the applicant's business location.

(3) Submit the thirty dollar (\$30) technician registration fee unless the individual is currently a licensed applicator for hire in Indiana in a category other than Category 3b.

(b) The state chemist shall develop the registered technician examination covering subject matter and standards identified to the state chemist by a standards committee. Members of this committee shall be appointed by the state chemist and shall include, at a minimum, individuals representing the following:

(1) The state chemist.

(2) The Purdue University cooperative extension service.

(3) Licensed applicators for hire.

(4) Registered technicians.

(c) The minimum passing score for the registered technician examination shall:

(1) be established by the state chemist after consideration of recommendations from the standards committee as described in subsection (b); or

(2) default to seventy-five percent (75%) if the standards committee has not made a recommendation to the state chemist.

(d) No examination may be attempted more than three (3) times in any twelve (12) month period. The twelve (12) month period shall commence on the date the first exam failure occurs.

(e) Registration of each registered technician shall expire on December 31 unless renewed by payment of a thirty dollar (\$30) renewal fee by that date. An individual renewing an applicator license for hire in Indiana in a category other than Category 3b shall not be required to pay this renewal fee. Renewal after December 31 shall include a late fee of thirty dollars (\$30) as required by IC 15-3-3.6-12.1 in addition to the thirty dollar (\$30) renewal fee.

(f) The registration credential shall be in the possession of the registered technician at all times the technician is at a work site as defined in 355 IAC 4-2-1(c). (*State Chemist of the State of Indiana; 355 IAC 4-6-4; filed Jan 13, 1988, 4:47 p.m.: 11 IR 1761; filed Jan 9, 1992, 3:00 p.m.: 15 IR 704; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1101; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

355 IAC 4-6-5 Advanced training program (Repealed)

Sec. 5. (*Repealed by State Chemist of the State of Indiana; filed Jan 9, 1992, 3:00 p.m.: 15 IR 705*)

355 IAC 4-6-6 Supervision of uncertified employees

Authority: IC 15-3-3.6-5

Affected: IC 15-3-3.6

Sec. 6. Uncertified employees must use pesticides on turf belonging to another only under supervision of a licensed applicator for hire as follows:

(1) Registered technicians shall operate under direct supervision as defined in 355 IAC 4-2-1.

(2) Uncertified and unregistered employees shall operate under the direct on-site supervision of a licensed applicator for hire only as provided for in 355 IAC 4-2-1(b)(1).

(*State Chemist of the State of Indiana; 355 IAC 4-6-6; filed Jan 13, 1988, 4:47 p.m.: 11 IR 1763; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1103; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269*)

355 IAC 4-6-7 New resident applicators for hire; requirements (Repealed)

Sec. 7. (*Repealed by State Chemist of the State of Indiana; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1103*)

355 IAC 4-6-8 Nonresident applicators; requirements (Repealed)

Sec. 8. (*Repealed by State Chemist of the State of Indiana; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1103*)

355 IAC 4-6-9 Denial of application for technician registration (Repealed)

Sec. 9. *(Repealed by State Chemist of the State of Indiana; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1103)*

355 IAC 4-6-10 Exemption

Authority: IC 15-3-3.6-5

Affected: IC 15-3-3.6

Sec. 10. All persons having completed the requirements for certification and licensing as a licensed applicator for hire and having been issued a valid certification as of the effective date of this rule are exempt from the requirements of section 4 of this rule. *(State Chemist of the State of Indiana; 355 IAC 4-6-10; filed Jan 13, 1988, 4:47 p.m.: 11 IR 1764; filed Jan 9, 1992, 3:00 p.m.: 15 IR 705; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1103; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269)*

355 IAC 4-6-11 Effective date (Repealed)

Sec. 11. *(Repealed by State Chemist of the State of Indiana; filed Jan 5, 2000, 3:54 p.m.: 23 IR 1103)*

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